

# 2023 DRAFT Shoreline Master Program and Zoning Code Amendments

(Added terms are in ***bold/ italicized***. Removed terms are ~~stricken~~ – all changes are in red font)

## SHORELINE MASTER PROGRAM CHANGES

### 4.6 Environment Designation Interpretation

- A. If disagreement develops as to the exact location of an environment designation boundary line, the Official Shoreline Maps shall prevail consistent with the following rules:
  - 1. Boundaries indicated as approximately following lot, tract, or section lines shall be so construed.
  - 2. In cases where boundary line adjustments or subdivisions occur, the designation applied to the original parcel prior to the boundary line adjustment or subdivision shall not change as a result. The shoreline designation can be re-designated through an SMP amendment.
  - 3. Boundaries indicated as approximately following roads and railroads shall be respectively construed to follow the nearest right-of-way edge.
  - 4. Boundaries indicated as approximately parallel to or extensions of features indicated in (1), (2), or (3) above shall be so construed.
- B. In the event of an environment designation mapping error where the SMP update or amendment record, including the public hearing process, is clear in term of the correct environment designation to apply to a property, the SMP Administrator shall apply the environment designation approved through the SMP Update or Amendment process and correct the map. Appeals of such interpretations may be filed pursuant to Section 7.0 Administration, Permits, and Enforcement, and the local appeal procedures referenced in Chapter 20.1848 of the Walla Walla Municipal Code. If the environment designation criteria were misapplied, but the map does not show an unintentional error (e.g. the SMP hearing and adoption record does not indicate another designation was intended), a SMP amendment may be obtained consistent with WAC 173-26-100 and Section 7.12 Amendments to the SMP.
- C. All shoreline areas waterward of the OHWM shall be designated Aquatic or Mill Creek Flume.
- D. Upland environment designations shall apply to shorelands.
- E. Only one environment designation shall apply to a given shoreland area. In the case of different designations occurring parallel to the shoreline, designations shall be divided along an identified linear feature and the boundary shall be clearly noted on the map (for example: “boundary is 100 feet upland from the OHWM”).

## 7.0 Administration, Permits, and Enforcement

### 7.2 Administrative Responsibilities

- A. The City shall designate an SMP Administrator. The SMP Administrator or his/her designee is hereby vested with the authority to:
  - 1. Have overall administrative responsibility of this SMP.
  - 2. Grant or deny exemptions from Shoreline Substantial Development Permit requirements of this SMP.
  - 3. ~~Recommend~~ **Provide** authorization, approval with conditions, or denial of Shoreline Substantial Development Permits, conditional uses, and variances **or provide recommendations for such to the appropriate reviewing authority/approving body.**
  - 4. Grant time extensions to shoreline permits and their revision.
  - 5. Process shoreline substantial development permits, conditional use permits, and variances pursuant to Walla Walla Municipal Code (WWMC) Chapter **20.22, 20.26 or 20.27**.
  - 6. Administrative appeals are processed pursuant to WWMC Chapter 20.38.
  - 7. Amendments to the SMP are processed pursuant to the WWMC Chapter 20.28 and WAC 173-26-100.

**Commented [PF1]:** We could simplify this even more and write that permits are processed under Title 20.

### 7.6 Shoreline Substantial Development Permits

- A. A shoreline Substantial Development Permit shall be required for all development of shorelines, unless the proposals is specifically exempt per Section 7.4 (Exemption from Permit Requirements) or is not subject to the SMP per Section 1.3.3 (Applicability). Shoreline Substantial Development Permit applications shall be processed consistent with this SMP and Walla Walla Municipal Code Chapter **20.22, 20.26 or 20.27** (~~Level IV Review~~) and Chapter 20.14 (~~Development Authorizations Application Review~~ – General).
- B. A substantial development permit shall be granted only when the development proposed is consistent with:
  - 1. The policies and procedures of the SMA;
  - 2. The provisions of WAC 173-27; and
  - 3. This SMP.
- C. The City may attach conditions to the approval of permits as necessary to assure consistency of the project with the SMA and this SMP.
- D. Nothing shall interfere with the City's ability to require compliance with all other applicable plans and laws.
- E. Construction and activities authorized by a Shoreline Substantial Development Permit are subject to the time limitations of WAC 173-27-090.

### 7.7 Shoreline Conditional Use Permits

- A. Uses specifically classified or set forth in this SMP as conditional uses shall be subject to review and condition by the Shorelines Hearings Board/Examiner and by Ecology. Shoreline Conditional

Use Applications shall be processed consistent with this SMP and Walla Walla Municipal Code Chapters 20.14 and **20.22, 20.26 or 20.27**.

- B. Other uses which are not classified, listed, or set forth in this SMP may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this Section and the requirements for conditional uses contained in this SMP.
- C. Uses which are specifically prohibited by this SMP may not be authorized as a conditional use.
- D. Uses which are classified or set forth in this SMP as conditional uses may be authorized provided that the applicant demonstrates all of the following:
  - 1. That the proposed use is consistent with the policies of RCW 90.58.020 and this SMP;
  - 2. That the proposed use will not interfere with the normal public use of public shorelines;
  - 3. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and SMP;
  - 4. That the proposed use will cause no significant adverse effects to the shoreline environment; and
  - 5. That the public interest suffers no substantial detrimental effect.
- E. In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

## 7.8 Shoreline Variances

- A. The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this SMP where extraordinary or unique circumstances relating to the property would impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. The City may not grant variances from the use regulations of the SMP. Shoreline Variance Applications shall be processed consistent with this SMP and WWMC **20.22, 20.26 or 20.27**.
- B. Variance permits should be granted in circumstances where denial of the permit would conflict with the goals of the SMA as listed in RCW 90.58.020. In all instances the applicant must demonstrate extraordinary circumstances and that approval of the variance will not result in substantial detrimental effect to the public interest.
- C. Variance permits for development and/or uses that will be located landward of the OHWM, as defined in RCW 90.58.030(2)(b), and/or landward of any wetland as defined in RCW 90.58.030(2)(h), may be authorized, provided the applicant can demonstrate all of the following:
  - 1. That the strict application of the bulk, dimensional or performance standards set forth in the SMP precludes, or significantly interferes with, reasonable use of the property;
  - 2. That the hardship described in Subsection (1) is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the SMP, and not, for example, from deed restrictions or the applicant's own actions;

3. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and SMP and will not cause adverse impacts to the shoreline environment;
  4. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
  5. That the variance requested is the minimum necessary to afford relief; and
  6. That the public interest will suffer no substantial detrimental effect.
- D. Variance Permits for development and/or uses that will be located waterward of the OHWM as defined in RCW 90.58.030(2)(b), or within any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:
1. That the strict application of bulk, dimensional or performance standards set forth in this SMP precludes all reasonable use of the property;
  2. That the proposal is consistent with the criteria established under Subsection (C) of this Section; and
  3. That the public rights of navigation and use of the shoreline will not be adversely affected.
- E. In the granting of all variance permits, consideration shall be given to the cumulative impacts of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

## ZONING CODE CHANGES

### **20.10.080 City council.**

As the legislative body for the city of Walla Walla, the city council shall have the following authority and duties associated with this code:

- A. Make the final legislative decision on amendments to the Zoning Code, Subdivision Code, Shoreline Master Program, Critical Areas Code, and the Comprehensive Plan.
- B. Make the final legislative decision on street vacations, pre-zones, and annexations.
- C. Make the final quasi-judicial decision on preliminary ~~and final~~ subdivision plans, ~~shoreline substantial development permits~~, and site-specific amendments to the Official Zoning Map.
- D. Perform any other act or duty authorized by law.

### **20.14.065 Notice of application/proposal.**

A. Notice of Application/Proposal – Contents. Notice of application/proposal shall be given no later than fourteen days after the application has been determined to be complete. Notice of application/proposal is not required for interpretation requests or Level I proposals that are categorically exempt under SEPA, unless a special notification request has previously been made in accordance with Section 20.14.015. If the proposal requires an open record hearing, notice of application shall be given at least fifteen days prior to the hearing.

#### 1. Notice of application/proposal shall include:

- a. The identity of the applicant;
- b. The date of the notice of application/proposal;
- c. Project description;
- d. Preliminary identification of existing environmental documents that evaluate the proposal and the location where the application and studies can be reviewed;
- e. A preliminary determination and reference to the relevant code provisions, development standards, and regulations which may apply to the approval of the application; a preliminary list of those regulations that will be used for project mitigation; and, if a mitigated DNS is expected to issue, a preliminary list of conditions being considered to mitigate environmental impacts;
- f. On the first page, notice that:
  - i. The city uses the optional threshold determination process authorized by WAC 197-11-355;

ii. The application comment period for nonexempt proposals may be the only opportunity to comment on the environmental impacts of the proposal;

iii. The proposal may include mitigation measures under applicable codes, and the project review process may incorporate or require mitigation measures regardless of whether an environmental impact statement is prepared; and

iv. A copy of the subsequent threshold determination on the proposal may be obtained upon request;

g. The information required by Section 20.14.060(C);

h. A statement identifying the public comment period, the right to comment on the application, receive notice of and participate in hearings, request a copy of decision on the proposal once made, and any appeal rights;

i. To the extent applicable, the date, time, place, and type of hearing upon the application if such hearing has been scheduled at the time the notice of application/proposal is given; and

j. Other information that the department determines to be appropriate to include.

2. The notice of application/proposal may incorporate by reference the determination of completeness to the extent that it substantially provides the information required herein. In such case, the notice of application/proposal and copies thereof shall attach a copy of the determination of completeness and additionally provide the information required herein that is not provided by the determination of completeness. A notice of application/proposal and copies thereof which by reference incorporates a determination of completeness shall also attach any copies of documents incorporated through reference by the determination of completeness. The department shall prepare and provide a separate notice of application/proposal containing the information required by this section if either:

a. A determination of completeness was not required for the proposal;

b. A determination of completeness was not timely prepared for the proposal; or

c. The determination of completeness substantially omits the information required by Section 20.14.060(C).

#### B. Notice of Application – How Given.

1. Applicant Notice. The department shall electronically deliver or mail notice of application/proposal to the applicant, or the person or entity designated by the applicant to receive notice. The notice of application/proposal may be provided to the applicant or applicant's designee contemporaneously with the determination of completeness.

2. Agency Notice. The department shall electronically mail notice of applications/proposals that are not categorically exempt under SEPA to departments and agencies with jurisdiction over the project permit application.

3. Site Plan Review Committee Notice. The department shall electronically deliver notice of application/proposal to members of the site plan review committee if the proposal requires site plan review.

4. Sustainability Committee. The department shall electronically mail notice of applications/proposals that are not categorically exempt under SEPA to the city's sustainability committee.

5. Public Notice.

a. The department shall electronically deliver or mail notice of application/proposal of interpretation requests and Level I proposals that are categorically exempt under SEPA to parties that have filed a special notification request in accordance with Section 20.14.015. Such notice shall explain that there is no comment period, and that the proposal is categorically exempt under SEPA.

b. Anyone who has filed a special notification request in accordance with Section 20.14.015 shall receive the notice of application.

c. The notice of application shall be provided as follows:

Review Level	Notice Provided(1)
Non-SEPA exempt Level I	• Mailed to adjacent property owners (2)
	• City's website
Level II	• Mailed to adjacent property owners (2)
	• City's website
Level III	• Property owners within 300 feet of project site boundaries
	• City's website
	• Post the project site in a conspicuous location
	• Publish in the Union-Bulletin
Level IV (3)	• Property owners within 400 feet of project site boundaries
	• City's website
	• Post the project site in a conspicuous location

Review Level	Notice Provided(1)
	<ul style="list-style-type: none"> <li>• Publish in the Union-Bulletin</li> </ul>
<del>Level IV—Shoreline Substantial Development Permits, Shoreline Conditional Use Permit, or Shoreline Variance (4)</del>	<ul style="list-style-type: none"> <li>• <del>Property owners within 400 feet of project site boundaries</del></li> <li>• <del>City's website</del></li> <li>• <del>Post the project site in a conspicuous location</del></li> <li>• <del>Publish in the Union-Bulletin two consecutive weeks on the same day of the week</del></li> </ul>
Level V	<ul style="list-style-type: none"> <li>• City's website</li> <li>• Publish in the Union-Bulletin</li> </ul>
Level VI	<ul style="list-style-type: none"> <li>• City's website</li> <li>• Publish in the Union-Bulletin</li> </ul>
<i>Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance (4)</i>	<ul style="list-style-type: none"> <li>• <i>Property owners within 400 feet of project site boundaries</i></li> <li>• <i>City's website</i></li> <li>• <i>Post the project site in a conspicuous location</i></li> <li>• <i>Publish in the Union-Bulletin two consecutive weeks on the same day of the week</i></li> </ul>
Annexation Proposals	<ul style="list-style-type: none"> <li>• In accordance with Section 20.02.080 instead of this section</li> </ul>
Prezone Proposals	<ul style="list-style-type: none"> <li>• In accordance with the provisions of Chapter 35A.14 RCW instead of this section</li> </ul>
Street Vacations	<ul style="list-style-type: none"> <li>• In accordance with the provisions of Chapter 35.79 RCW instead of this section</li> </ul>

(1) Notice is provided to the record owner(s) of property, as shown by the records of the Walla Walla County assessor's office.

(2) If the owner of the proposal site owns another parcel or parcels of real property which lie adjacent to the proposal site, the notice of application/proposal shall be given to the record owner(s) of property, as shown by the records of the Walla Walla County assessor's office, which is adjacent to any portion of the boundaries of the proposal site or such other adjacently located parcels owned by the same owner as the proposal site.

**Commented [PF2]:** Note: The notice requirements of RCW 90.58.140 (4) state that:

... the local government shall require notification of the public of all applications for permits governed by any permit system established pursuant to subsection (3) of this section by ensuring that notice of the application is given by at least one of the following methods:

- (a) Mailing of the notice to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet of the boundary of the property upon which the substantial development is proposed;
- (b) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed; or
- (c) Any other manner deemed appropriate by local authorities to accomplish the objectives of reasonable notice to adjacent landowners and the public.

Note: The same notice provisions have been copied here but can be modified under sub section (c).

**Commented [PF3]:** Not sure where this two consecutive weeks publication requirements comes from. I can't find any legal authority requiring two weeks or any publication requirement for a permit for that matter.



(3) Notice of subdivision preliminary plat proposals shall be given to the Washington State Secretary of Transportation if a proposed subdivision preliminary plat is located adjacent to the right-of-way of a state highway or within two miles of the boundary of a state or municipal airport.

(4) Notices regarding shoreline substantial development proposals shall additionally include a statement that any person desiring to submit written comments concerning an application, or desiring to receive notification of the final decision concerning the proposal as expeditiously as possible after the issuance of decision, may submit the comments or requests for decisions to the department within thirty days following the date of final publication of the notice of application; unless the proposal is for a limited utility extension or for the construction of a bulkhead or other measures to protect a single-family residence and its appurtenant structures from shoreline erosion, in which case comments must be submitted within twenty days following the date of final publication of the notice of application.

C. Combined Notice. Notice of application/proposal may be combined with notice of hearing if the hearing date has been set at the time notice of application/proposal is given. Each combined notice shall contain the notice of application/proposal information required herein and the notice of hearing information required by Section 20.14.085.

D. The department should document the date and manner by which any notice is given.

E. The department may remove posted notice upon expiration of the comment period.

F. Publication costs and costs incurred to post and remove notice at the proposal site shall be borne by the applicant in addition to other costs and fees which apply.

#### **20.22.020 When required.**

A. Level II review may be required for proposals which may impact adjacent property owners by one or more of the following reasons:

1. Demands on transportation facilities which are noticeably greater than most outright uses in the zone;
2. Structures which are inordinately larger or structurally incongruous with structures that typically house uses permitted outrightly in the zone; and
3. Uses which typically generate more noise or outdoor activity than most outright uses in the zone.

B. Level II review is required for:

1. Uses listed as Level II in Chapter 20.100, Tables of Permitted Land Uses;
2. Home occupations listed as Level II in Chapter 20.123, Table of Permitted Home Occupations;

3. Binding site plans as provided in Chapter 19.28 of the Walla Walla Municipal Code;
4. Short plats as provided in Chapters 19.22 and 19.24 of the Walla Walla Municipal Code;  
~~and~~
- 5. Shoreline substantial development, shoreline conditional use, and shoreline variance permits pursuant to the Shoreline Master Program of this code; and*
- ~~65.~~ All other proposals determined by the director to be Level II uses.

**20.26.020 When required.**

Level III land use applications are required for:

- A. Conditional uses (Chapter 20.216);
- B. Variances (Chapter 20.220);
- C. Most enlargements of nonconforming situations (Chapter 20.212);
- D. Special use permits (Chapter 20.224);
- E. Level III home occupations (Chapter 20.123, Table of Permitted Home Occupations); and
- F. Shoreline substantial development, shoreline conditional use and shoreline variance permits, pursuant to the Shoreline Master Program of this code, if the underlying project permit requires a Level III review;*

~~GE.~~ All other proposals determined by the director to be Level III proposals.

**20.27.010 Purpose.**

The purpose of Level IV procedures is to handle applications which require a quasi-judicial public hearing before the hearing examiner or planning commission and recommendation to the Walla Walla city council. The Level IV review process provides for public involvement in the hearing process with mailed notice to the surrounding property owners.

The purpose of the public hearing for Level IV applications is to obtain information on the proposal and its relationship to the relevant criteria and standards of this code, the Subdivision Code in Title 19, ~~the Shoreline Master Program~~, and the policies of the Comprehensive Plan in order to make an informed recommendation to the city council. (See Chapter 20.36, Public Hearings.)

**20.27.020 When required.**

Level IV applications are required for:

- A. Site-specific amendments to the Official Zoning Map;
- B. Subdivision preliminary plats;
- C. Shoreline substantial developments, *shoreline conditional use and shoreline variance permits, pursuant to the Shoreline Master Program of this code, if the underlying project permit requires a Level IV review*;
- ~~D.~~ All other proposals determined by the director to be Level IV proposals.

**20.27.040 Review procedures, decision – Level IV.**

The following procedures will be followed for the review of Level IV applications:

A. Approving Authority/Reviewing Body. Final decision on Level IV applications is made by the approval authority (city council) following receipt of recommendation from the reviewing body (hearing examiner or planning commission) after public hearing. The city council does not hold an additional public hearing on Level IV applications. The city council may require or permit corrections of ministerial errors or inadvertent omissions from the record. For site-specific rezones, the reviewing body will follow the procedures and review criteria as provided in Chapter 20.48. The reviewing body responsible for the type of application specified in Section 20.27.020 is as follows:

1. Hearing Examiner.

- a. Site-specific zoning amendments to the Official Zoning Map.
- b. Subdivision preliminary plats, except planned unit developments.
- c. Shoreline substantial development, shoreline conditional use, and shoreline variance permits if the underlying project permit requires a Level IV review under this subsection.*
- ~~e~~d. Other proposals determined by the director to require Level IV review by the hearing examiner.

2. Planning Commission.

- a. Planned unit development preliminary plats.
- b. Shoreline substantial developments, *shoreline conditional use, and shoreline variance permits pursuant to the Shoreline Master Program and the applicable provisions of this code if the underlying project permit requires a Level IV review under this subsection.*
- ~~e~~. Other proposals determined by the director to require Level IV review by the planning commission.

B. Site Plan Review/Staff Report. Applications for site-specific zone changes do not require a site plan. However, for this type of application, the applicant has the option of submitting a site plan as would be required if the change of zone were approved and consistent with the Comprehensive Plan designation. Proposals requiring site plan review will be sent to the site plan review committee by the department no later than fourteen days after the application has been determined to be complete. The site plan review process shall be as set forth in Chapter 20.46, Site Plan Review Committee. The department shall coordinate and assemble the comments received. The comments shall be included in a staff report prepared by the department. The staff report shall summarize the proposal with the department's proposed findings, conclusions, and recommendations. The staff report is then submitted to the reviewing body for consideration at a public hearing and recommendation to the approving authority (city council).

C. SEPA Review. All Level IV applications will be reviewed by the department and, if SEPA review is required, such review will be conducted by the responsible official in accordance with the provisions of Chapter 20.14 and Title 21 of this code and Chapter 197-11 WAC. No approval or permit shall be issued on the proposal until SEPA review is complete.

D. Reviewing Body Recommendation. The reviewing body shall, following the public hearing, forward its recommendation to the city council to approve, deny, or approve with such conditions as are necessary to bring the proposal into conformance with the standards of this code and the policies of the Comprehensive Plan. Conditions of approval may include actions necessary to avoid imposition of undue public service obligations on the city, or mitigation of detrimental effects on other property owners. Conditions of approval shall be based on the standard or policy which permits or requires such condition.

E. City Council Decision. The city council shall at a public meeting review the recommendation of the reviewing body and consider the same. The city council shall vote to approve, disapprove or modify the proposal, or shall vote to refer the matter back to the reviewing body. The city council may uphold, amend, or reverse a finding or recommendation of the reviewing body.

F. Issuance of Building Permits. No use resulting from or requiring a Level IV decision shall be entitled to a building permit unless and until the approving authority approves the application. The Level IV decision is not a building permit and does not by itself authorize the construction or occupancy of any use or structure.

#### **20.38.020 Appellate body for appeals.**

A. Appeal of final Level I and II decisions, final director decisions made under the Subdivision Code, interpretations made pursuant to Section 19.02.060 of the Subdivision Code or Section 20.02.090 of this code, final home occupation decisions made pursuant to Section 20.122.090 of this code, appeals permitted by Section 21.08.170 of this code, *appeals of shoreline substantial development permit decision applied for under 90.58.140(11)*, and appeals permitted in codes adopted by Section 15.04.010 of the Walla Walla Municipal Code, shall be made to the hearing examiner.

B. Appeal of final Level III decisions of the hearing examiner and final Level IV decisions of the city council, ~~other than decisions on shoreline permits~~, must be made in the manner provided by Chapter 36.70C RCW. ~~Shoreline permit decisions must be appealed in the manner provided by Chapter 90.58 RCW.~~ No administrative appeal is provided under this chapter for Level III or Level IV decisions except for certain SEPA determinations.

C. Level V and Level VI council action may be reviewed solely to the extent and only in the manner provided by law. No administrative appeal is provided under this chapter for Level V or Level VI actions except for certain SEPA determinations.

*D. Other than as provided for in subsection A of this section, appeals of shoreline substantial development, shoreline conditional use or shoreline variance permit decisions must be appealed in the manner provided in Chapter 90.58 RCW.*